

Amendment No. 1 to HB1769

Sargent
Signature of Sponsor

AMEND Senate Bill No. 2076

House Bill No. 1769*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-3-202(c), is amended by deleting the subsection and substituting instead the following language:

(c) Except when used by a commercial carrier to produce power for a means of transportation, as defined in the Transportation Fuel Equity Act, compiled in part 14 of this chapter, diesel fuel that is indelibly dyed in accordance with internal revenue service regulations and is legal for exempt use only shall not be considered subject to the diesel tax imposed under this section.

SECTION 2. Tennessee Code Annotated, Section 67-3-418, is amended by deleting the first sentence and substituting instead the following language:

When an end user uses undyed diesel fuel as heating oil or for other non-highway purposes, the end user may apply for a refund of the diesel tax imposed by § 67-3-202. The end user shall not be entitled to a refund, if the end user is a commercial carrier who used the undyed diesel fuel to produce power for a means of transportation or if any other provision of law precludes the end user from applying for a refund.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 3, is amended by adding Sections 4 through 10 as a new part 14.

SECTION 4. This part shall be known and may be cited as the "Transportation Fuel Equity Act."

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SECTION 5. The use of diesel fuel by commercial carriers has significant and unique impacts on the state, and the nature of the transportation industry raises significant challenges in the administration and enforcement of fuel taxes; therefore, this general assembly enacts this part to tax persons engaging in the activity of using diesel fuels to transport passengers or goods for a fee.

SECTION 6. Unless specifically defined in this part, all terms used in this part have the same meaning as they have elsewhere in this chapter. As used in this part:

(1) "Commercial carrier" means any individual, person, entity, or organization that contracts to transport passengers or goods for a fee;

(2) "Diesel tax" means the tax imposed by § 67-3-202;

(3) "Dyed diesel" means any diesel fuel that is indelibly dyed in accordance with internal revenue service regulations; and

(4) "Means of transportation" means any vehicle or other device employed by a commercial carrier for the purpose of transporting passengers or goods for a fee, including, but not limited to, motor vehicles, trains, and aircraft; provided, "means of transportation" does not include any marine vessels, boats, barges, or other craft operated on waterways.

SECTION 7. All diesel fuel, whether undyed or dyed, that is used in this state by a commercial carrier to produce power for a means of transportation is subject to the diesel tax. This section prevails over any other provision of this chapter.

SECTION 8.

(a) Each commercial carrier who uses dyed diesel to produce power for a means of transportation within this state shall be subject to the tax imposed by § 67-3-202 on all such fuel so used within this state and shall register with the department and file reports on forms prescribed by the department showing the total number of gallons of dyed diesel used within this state and any other information as may be reasonably required by the commissioner. Each report shall be filed on the twentieth day of the month following the close of each calendar quarter and shall include all activities occurring during such quarter.

(b) The full amount of the diesel tax imposed by this state on dyed diesel shall be paid at the same time that the commercial carrier transmits the report and no later than the quarterly due date set forth in subsection (a).

SECTION 9.

(a) The amount of diesel tax payable to this state on dyed diesel pursuant to this part is determined by multiplying the rate of the diesel tax by the number of gallons of dyed diesel used in this state by the commercial carrier to produce power for a means of transportation.

(b) There shall be allowed a credit against the amount determined under subsection (a) equal to the amount, if any, of sales tax properly paid to another state upon the dyed diesel used in this state by the commercial carrier to produce power for a means of transportation.

SECTION 10. All moneys collected pursuant to this part shall be deposited by the commissioner in the separate account known as the transportation equity trust fund created by § 9-4-207(a) and shall be used in the manner prescribed by § 9-4-207(b). This section prevails over any other provision of this chapter.

SECTION 11. Tennessee Code Annotated, Section 67-6-329(a)(2), is amended by deleting the subdivision and substituting instead the following:

(2) Motor fuel taxed per gallon by chapter 3, part 2 of this title;

SECTION 12. Section 129 of Chapter 602 of the Public Acts of 2007, is amended by deleting amendatory § 67-4-2306 and redesignating the remaining amendatory sections accordingly.

SECTION 13. Section 131 of Chapter 602 of the Public Acts of 2007, is amended in amendatory § 67-4-2503 by adding the following language at the end of the section:

Sales of dyed diesel fuel taxed per gallon by § 67-3-202 are exempt from the tax imposed by this part.

SECTION 14. Section 155 of Chapter 602 of the Public Acts of 2007, is amended in amendatory § 67-6-386 by deleting subsections (b), (c), and (d).

SECTION 15. Section 157 of Chapter 602 of the Public Acts of 2007, is amended by deleting the language “, and by inserting the language ‘and Section 67-4-2306’ between the word ‘chapter’ and the word ‘from’ in subdivision (2)”.

SECTION 16. Section 160 of Chapter 602 of the Public Acts of 2007, is amended by inserting the language “or” between the language “for use outside this state,” and “is a commercial air carrier” in subsection (a) and is further amended by deleting the following language in subsection (a):

or is a common carrier that actually uses diesel fuel in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce

and is further amended by inserting the language “,” between the words “time” and “if” in the third sentence of subsection (a).

SECTION 17. Section 160 of Chapter 602 of the Public Acts of 2007, is further amended by deleting subsection (d).

SECTION 18. This act shall take effect on July 1, 2014, the public welfare requiring it.